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INGVOLDSTAD, BENNETT

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2427

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/771,701	Applicant(s) FINSETH ET AL.	
	Examiner Bennett Ingvaldstad	Art Unit 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-47, 49-58, 60-69 and 71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-47, 49-58, 60-69 and 71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/28/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 October 2008 has been entered.

Response to Arguments

2. Applicant's arguments filed 28 October 2008 have been fully considered.
3. Applicant has amended the independent claims to require that the displayed subset of multimedia programs are obtained by a search, as previously claimed in canceled dependent claims 48, 59, and 73-76. Applicant argues that neither Boyer nor Kahl meet the above limitations. Remarks, pg. 14. The examiner respectfully disagrees.
4. Boyer teaches searching the EPG database (Fig. 21), and displaying the search results along with the calendar (Fig. 22). Boyer's displayed search results listings are event listings, because they each have an associated broadcast date and time. Further, the event listings displayed after a search are a subset of event listings from the EPG database. Fig. 22. However, Boyer does not further display indicators for each program on the dates on which the subset of programs are broadcast.

5. Kahl teaches displaying event indicators on a calendar (Fig. 2: elements 23, 27, 29; col. 2, l. 59-67). Indicators are displayed for each event on the respective dates on which the events occur (Fig. 2).

6. Kahl's event indicators could have been added to Boyer's calendar, thus displaying event indicators for the subsets of broadcast program events displayed in, for example, the search results page of Fig. 22. See the respective rejections. As was previously noted, the particular use of known techniques to improve similar devices in the same way is obvious. Therefore, although neither Boyer nor Kahl alone teach the claimed program indicators for a first subset of programs obtained by a search, by combining Kahl's calendar event indicators with Boyer's display of a calendar for selecting a subset of program events obtained by a search, one of ordinary skill arrives at the claimed invention.

7. Applicant further argues that Boyer and Kahl are not "similar" and are therefore not combinable. Remarks, pgs. 14-15. Applicant argues that Boyer displays program events on a television, while Kahl displays personal or professional appointment events on a computer. Applicant argues that a user interface on a computer is not analogous to a user interface on a television, mentioning differences in user input devices and resolution capabilities. Remarks, pg. 15.

8. However, it is noted that Boyer's program guide can be implemented on a personal computer. Boyer, para [0011]. Further, it can be navigated using a mouse or other pointing device. Boyer, para [0074]. Therefore, the examiner finds the above arguments unpersuasive.

9. Applicant further argues the motivation for the combination, claiming that Boyer's calendar needs no improvement to select a day or time. Remarks, pg. 15. However, Kahl's indicators improve Boyer's calendar by allowing the viewer to see a quick overview of the dates on which events occur. Boyer's program guide can only display about 7 program events without resorting to scrolling (see Fig. 22), whereas Kahl's indicators allow a user to quickly see an overview of events across an entire month, thereby allowing a user to quickly see which dates are selectable to view associated events.

10. Therefore, Applicant's arguments are unpersuasive, and the previous rejections are upheld.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 30-32, 34, 37, 40-42, 44, 47, 51-53, 55, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625).

Regarding claim 30, Boyer discloses an electronic program guide for providing information regarding a plurality of broadcast media programs comprising:

- a listing of media program representations that represent a first subset of the plurality media programs (listings subsets on right portion of screen [Figs 16-22]), the first subset of media programs being obtained by a search of the plurality of broadcast media programs (Fig. 22: search results); and
- a calendar image (calendar 232 [Fig 16]) displayed separate from and with the listing of media program representations, the calendar image including a plurality of dates [Fig 16];
- wherein the calendar image includes a selection indicator, the selection indicator movable within the calendar image for selecting one of the plurality of dates on the calendar image [0103].

Boyer does not further disclose:

- a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which only the first subset of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2, l. 59-67].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Regarding claim 40, Boyer discloses an electronic program guide receiving system that receives and generates a display of television content and program guide data, the system comprising:

- a receiver for receiving the program guide data and the television content (set top box [Fig 1]);
- a memory for storing the received program guide data (for storing program guide data downloaded from web server [Fig 1]); and
- a display generator for generating a first display screen based on the received program guide data (for outputting to television 54 [Fig 1]),
- a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations [Fig 16], the calendar image including a plurality of dates and a selection indicator, the selection indicator movable within the

calendar image, the selection indicator for selecting one of the plurality of dates on the calendar image and a time [0103], the listing of media program representations representing a plurality of media programs that are being broadcast on the selected date and time;

- the listing of media program representations represents a first subset of the plurality of media programs obtained by a search of the plurality of the program guide data (Boyer, Figs 21, 22).

Boyer does not further disclose that the selection indicator is movable within dates on the calendar image to select a particular time ... and the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which only the first subset of the plurality of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2, l. 59-67]. Multiple indicators are stacked in a single date so that a cursor is movable within the date to select the various indicators [col. 3, l. 1-5].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a

program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to “only” the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Regarding claim 51, Boyer discloses a method of receiving electronic program guide data and television content, the method comprising:

- receiving electronic program guide data (program information via the Internet [Abstract]);
- storing the received program guide data (downloading from web server 20 [Fig 1]); and
- generating a first display screen based on the stored program guide data, the first display screen comprising a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations [Fig 16], the calendar image including a plurality of dates and a selection indicator, the selection indicator movable within the calendar image, the selection indicator for selecting one of the plurality of dates on the calendar image [0103], ... the listing of media program representations representing a plurality of media programs that are being broadcast on the selected date and time [Figs 16-22];

- wherein the listing of media program representations represents a first subset of the plurality of media programs obtained by a search of the plurality of the program guide data (Boyer, Figs 21, 22).

Boyer does not further disclose that the selection indicator is movable within dates on the calendar image to select a particular time, and the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of the plurality, of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2, l. 59-67]. Multiple indicators are stacked in a single date so that a cursor is movable within the date to select the various indicators [col. 3, l. 1-5].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Regarding claims 31, 41, and 52, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses:

- wherein the calendar image includes dates for an entire month [Kahl Fig 2].

Regarding claims 32, 42, and 53, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses:

- a date region separate from and adjacent to the calendar image, the date region including therein a representation of a calendar date that changes as the selection indicator is moved from date to date within the calendar image ("December 1989" changes as dates are moved across months or years [Kahl Fig 2]).

Regarding claims 34, 44, and 55, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses:

- further comprising a title region separate from and adjacent to the calendar image, the title region including therein a title or categorical description of the listing of media program representations ("December 1989" is a title or categorical description [Kahl Fig 2]), the title or categorical description changing when the selection indicator is moved

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from the current date and time within the calendar image (as dates are moved across months or years [Kahl Fig 2]).

Regarding claims 37, 47, and 58, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl does not further disclose:

- wherein the calendar image is expandable by user command

Applicant's admission of fact (see "Response to Arguments") provides evidence that the method of resizing images by user command for a graphical user interface was well known in the art.

Therefore it would have been obvious to one of ordinary skill in the art to make an image such as the calendar image of Boyer in view of Kahl resizable and thus expandable for the purpose of providing to the user the ability to resize or expand an image as needed.

13. Claims 36, 46, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), further in view of Brown (US 4216596).

Regarding claims 36, 46, and 57 depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses that "certain dates within the calendar

image" are blank thereby "highlighting other dates within the calendar image"
(dates outside of the selected month are blank [Kahl Fig 2]).

Boyer in view of Kahl does not specifically disclose a mask overlay that
blanks the dates.

Brown discloses that it is well known to use a mask to blank calendar days
(covering up the days beyond the days of the current month [col. 2, l. 16-23]).

Therefore it would have been obvious to one of ordinary skill in the art to
modify the calendar with the teaching of Brown's calendar because the method
of using a mask to overlay certain dates in order to highlight other dates was well
known to produce the predictable result of blanking certain dates.

14. Claims 38, 39, 49, 50, 60, and 61 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), further in
view of Green (US 6192346).

Regarding claims 39, 50, and 61, depending respectively on claims 30, 48, and
59, Boyer in view of Kahl does not contemplate using different colored program
indicators to indicate different concentrations of media programs. However, Kahl
teaches displaying program indicators differently based on different
concentrations of events by staggering "busy bar" indicators to indicate
overlapping of events.

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Green teaches coloring calendar days using different colors to indicate different conditions.

One of ordinary skill would have been able to adapt the teaching of Green to modify the "busy bar" indicators to use colors to indicate overlapping events instead of staggering, for the purpose of more easily indicating an overlapping condition to the user.

Regarding claims 38, 49, and 60, Boyer in view of Kahl in view of Green (as combined for the previous rejection) discloses using different shades in conjunction with using different colors (different colors appear using different shades [Green Fig 7]).

15. Claims 33, 35, 43, 45, 54, 56, 62-67, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), further in view of Lemmons (US 2004/0216160).

Regarding claim 62, Boyer discloses a system for transmitting and receiving electronic program guide data and television audio and video signals, the system comprising:

- a combiner for combining the program guide data and the television audio and video signals into an output data stream (media and data are combined in transmission server 16 [Fig 1] [0051];

- a transmitter ... (transmission server [Fig 1]) ;
- a plurality of receivers [Fig 1], each receiver receiving the output data stream, identifying the program guide data from the output data stream, and storing the identified program guide data; and
- display means for generating a first display screen based on the stored program guide data [Fig 16], the first display screen comprising a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations [Fig 16], the calendar image including plurality of dates and a selection indicator, the selection indicator movable within the calendar image for selecting one of the plurality of dates on the calendar image [0103] ... , the listing of media program representations presenting a plurality of media programs that are being broadcast on the selected date and time [Figs 16-22];
- wherein the listing of media program representations represents a first subset of the plurality of media programs obtained by a search of the plurality of the program guide data (Boyer, Figs 21, 22).

Boyer does not further disclose that the selection indicator is movable within dates on the calendar image to select a particular time, and the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of the plurality, of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2, l. 59-67]. Multiple indicators are stacked in a single date so that a cursor is movable within the date to select the various indicators [col. 3, l. 1-5].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Boyer in view of Kahl does not disclose that the transmitter broadcasts the signal as claimed.

Lemmons discloses that a program guide and calendar may be broadcast to a user, for example by a satellite [Fig 1].

It would have been obvious to have broadcasted the program guide and calendar from a television broadcast site for the purpose of not requiring an Internet connection at the set top box.

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Regarding claims 33, 43, 54, and 65, depending respectively on claims 30, 40, 51, and 62, Boyer in view of Kahl does not further disclose a time region as claimed.

Lemmons discloses a program guide calendar comprising:

- a time region separate from and adjacent to the calendar image (time region 304 [Fig 8]), the time region including therein a representation of a time of day that changes as the selection indicator is moved upward and downward within a particular date on the calendar image (the up and down button is used to move between the time regions [0095]).

It would have been obvious to use Time-to-View indicators with the calendar of Boyer in view of Kahl for the purpose of indicating the time range of the selected "busy bar" indicator.

Regarding claims 35, 45, 56, and 67, depending respectively on claims 30, 40, 51, and 62, Boyer in view of Kahl does not further disclose a data range indicator as claimed.

Lemmons discloses a calendar comprising:

- a data range indicator that provides an indication on the calendar image of the dates for which program guide information is available (heavy borders indicate a memory contains program schedule information for that day [0091]).

It would have been obvious to have used Lemmons' data range indicator for the purpose of indicating which days have associated program information.

Regarding claim 63, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses:

- wherein the calendar image includes dates for an entire month [Kahl Fig 2].

Regarding claim 64, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses:

- a date region separate from and adjacent to the calendar image, the date region including therein a representation of a calendar date that changes as the selection indicator is moved from date to date within the calendar image ("December 1989" changes as dates are moved across months or years [Kahl Fig 2]).

Regarding claim 66, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses:

- further comprising a title region separate from and adjacent to the calendar image, the title region including therein a title or categorical description of the listing of media program representations ("December 1989" is a title or categorical description [Kahl Fig 2]), the title or

categorical description changing when the selection indicator is moved from the current date and time within the calendar image (as dates are moved across months or years [Kahl Fig 2]).

Regarding claim 69, depending on claim 62, Boyer in view of Kahl and Lemmons does not further disclose:

- wherein the calendar image is expandable by user command

Applicant's admission of fact (see "Response to Arguments") provides evidence that the method of resizing images by user command for a graphical user interface was well known in the art.

Therefore it would have been obvious to one of ordinary skill in the art to make an image such as the calendar image of Boyer in view of Kahl resizable and thus expandable for the purpose of providing to the user the ability to resize or expand an image as needed.

16. Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), Lemmons (US 2004/0216160), and Brown (US 4216596).

Regarding claim 68, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses that "certain dates within the calendar image" are blank thereby

"highlighting other dates within the calendar image" (dates outside of the selected month are blank [Lemmons Fig 8] [Kahl Fig 2]).

Boyer in view of Kahl and Lemmons does not specifically disclose a mask overlay that blanks the dates.

Brown discloses that it is well known to use a mask to blank calendar days (covering up the days beyond the days of the current month [col. 2, l. 16-23]).

Therefore it would have been obvious to one of ordinary skill in the art to modify the calendar with the teaching of Brown's calendar because the method of using a mask to overlay certain dates in order to highlight other dates was well known to produce the predictable result of blanking certain dates.

17. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), Lemmons (US 2004/0216160), and Green (US 6192346).

Regarding claim 71, depending on claim 70, Boyer in view of Kahl and Lemmons does not contemplate using different shades to indicate different concentrations of media programs. However, Kahl teaches displaying program indicators differently based on different concentrations of events by staggering "busy bar" indicators to indicate overlapping of events.

Green teaches coloring calendar days using different colors/shades to indicate different conditions (Fig. 7).

One of ordinary skill would have been able to adapt the teaching of Green to modify the "busy bar" indicators to use shades to indicate overlapping events instead of staggering, for the purpose of more easily indicating an overlapping condition to the user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvoldstad whose telephone number is (571)270-3431. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner, Art Unit 2421

/Bennett Ingvaldstad/
Examiner, Art Unit 2427